

AMENDED IN ASSEMBLY MAY 9, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 802

Introduced by Assembly Member Members Blumenfield and Cook
(Coauthors: Assembly Members Beall and Garrick)

February 17, 2011

An act to add and repeal Section 46300.8 of the Education Code, relating to online education.

LEGISLATIVE COUNSEL'S DIGEST

AB 802, as amended, Blumenfield. Online education: school attendance.

Existing law establishes the public elementary and secondary school system in this state, and further establishes a funding system pursuant to which the state apportions funds to local educational agencies based on, among other factors, the average daily attendance of pupils at the schools operated by those agencies. Numerous statutes and regulations govern the calculation and reporting of average daily attendance.

This bill, commencing with the 2013–14 fiscal year, would provide that school districts, county offices of education, and charter schools that offer online education courses may claim attendance toward average daily attendance on the basis of a pupil's attendance in an online course or courses that satisfy prescribed criteria.

The bill would require the Superintendent of Public Instruction, in consultation with the Controller and the Director of Finance, on or before December 31, 2012, to make revisions to any attendance accounting manual or guidance provided to school districts, county offices of education, or charter schools that are necessary to conform to these provisions, or to clarify these provisions with respect to

attendance accounting procedures for asynchronous online courses, as defined. The bill additionally would require the Superintendent, in consultation with the Director of Finance, to adopt rules and regulations for the purposes of clarifying or expanding the procedures required for verifying the identification of pupils participating in asynchronous online courses and including pupil attendance in asynchronous online education courses in the calculation of average daily attendance.

The bill would make all of these provisions inoperative on July 1, 2017, and repeal them on January 1, 2018.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 46300.8 is added to the Education Code,
2 to read:
3 46300.8. (a) Commencing with the 2013–14 fiscal year, a
4 school district, county office of education, or charter school may
5 claim attendance toward average daily attendance, for the purposes
6 of calculating average daily attendance pursuant to Section 46300,
7 on the basis of a pupil’s attendance in an online course or courses
8 if all of the following apply:
9 (1) The pupil is enrolled in grade 9, 10, 11, or 12.
10 (2) The pupil is enrolled in classes that include courses in a
11 classroom-based setting, courses that are offered through an online
12 program, or both.
13 (3) The pupil meets minimum instructional time requirements
14 pursuant to:
15 (A) Section 46141 and Section 46201, 46201.5, or 46202, as
16 applicable, for pupils enrolled in a noncharter school in a school
17 district or county office of education.
18 (B) Section 46170, for pupils enrolled in a continuation school.
19 (C) Section 46180, for pupils enrolled in an opportunity school.
20 (D) Subdivision (e) of Section 47612.5, for pupils enrolled in
21 a charter school.
22 (4) Each online course in which the pupil is enrolled is a
23 high-quality online course.
24 (b) For the purposes of this section, a “high-quality online
25 course” is defined as an online course that meets all of the
26 following requirements:

1 ~~(1) The online course is approved by the governing body of the~~
2 ~~local educational agency.~~

3 ~~(2) The online course is certified to meet these requirements,~~
4 ~~through board resolution, by the governing body of the local~~
5 ~~educational agency.~~

6 ~~(3) The online course is certified by the governing body of the~~
7 ~~local educational agency~~

8 *(1) The online course is approved by the governing board of*
9 *the school district or county office of education, or by the governing*
10 *body of the charter school.*

11 *(2) The online course is certified to meet these requirements,*
12 *through board resolution, by the governing board of the school*
13 *district or county office of education, or by the governing body of*
14 *the charter school.*

15 *(3) The online course is certified by the governing board of the*
16 *school district or county office of education, or by the governing*
17 *body of the charter school, as being as rigorous as a*
18 *classroom-based course and meeting or exceeding all relevant state*
19 *content standards.*

20 (4) Either of the following:

21 (A) The teacher is online at the same time as each pupil, is
22 accessible to each pupil attending the synchronous online course
23 to respond to pupil queries, assign tasks, and dispense information,
24 and is able to make a visual connection with each pupil for the
25 purposes of verifying attendance or providing immediate
26 supervision of the pupil.

27 (B) The teacher may be online at different times than each pupil,
28 is accessible to each pupil attending the asynchronous online course
29 to respond to pupil queries, assign tasks, and dispense information,
30 and, for the purposes of verifying attendance, is able to employ at
31 least one of the following:

32 (i) Periodic proctored examinations.

33 (ii) Direct teacher-pupil meetings no less than twice per calendar
34 month.

35 (iii) A visual connection including, but not limited to, Internet
36 Webcam.

37 (5) (A) *The ratio of pupils enrolled in that course to full-time*
38 *equivalent certificated teachers teaching the online course to pupils*
39 *enrolled in that course is greater is less than or equal to the ratio*
40 *of teachers to pupils pupils to teachers in traditional classroom*

1 study of the same subject matter in the school, school district, or
2 the unified school district with the largest average daily attendance
3 of pupils in that county for the prior school year, as reported on
4 the Internet Web site of the department.

5 ~~(B) If the online course is new or deemed by the governing body~~
6 ~~of the local educational agency to be unique to the online setting,~~
7 ~~the ratio of full-time equivalent certificated teachers to pupils~~
8 ~~enrolled in that course shall not exceed 30 to 1.~~

9 ~~(C) If the online course is new or deemed by the governing body~~
10 ~~of the local educational agency to be unique to the online setting,~~
11 ~~the teacher of the online course, at a minimum, shall meet the~~
12 ~~requirements described in paragraph (7).~~

13 *(B) If the online course is new or deemed by the governing board*
14 *of the school district or county office of education, or by the*
15 *governing body of the charter school, to be unique to the online*
16 *setting, the ratio of pupils enrolled in that course to full-time*
17 *equivalent teachers teaching the online course shall not exceed*
18 *30 to 1.*

19 (6) When a traditional classroom-based course of the same
20 course title exists within the ~~local educational agency school~~
21 *district, county office of education, or charter school*, the subject
22 matter content of the online course is the same as for the traditional
23 classroom-based course.

24 (7) The teacher of the online course holds the appropriate subject
25 matter credential and meets the requirements for a highly qualified
26 teacher pursuant to the federal No Child Left Behind Act of 2001
27 (20 U.S.C. Sec. 6301 et seq.).

28 (8) Statewide testing results for online pupils are reported and
29 assigned to the ~~local educational agency school~~ in which the pupil
30 is enrolled for regular classroom courses, *and to any school district*
31 *or county within which that school's testing results are aggregated.*

32 (9) The online course is offered by a high school, continuation
33 school, county office of education, or charter school *offering*
34 *instruction in any of grades 9 to 12, inclusive.*

35 (10) No pupil is assigned to the online course unless the pupil
36 voluntarily elects to participate in the online course and the parent
37 or guardian of the pupil provides written consent before the pupil
38 participates in the online course.

1 (11) No pupil voluntarily electing to participate in the online
2 course is denied access because the pupil lacks the computer
3 hardware or software necessary to participate in the online course.

4 (12) No pupil is charged for his or her participation in the online
5 course.

6 (13) Pupils enrolled in the online course take examinations by
7 proctor or other reliable methods are used to ensure test integrity,
8 and there is a clear record of pupil work, using the same method
9 of documentation and assessment as used in a classroom-based
10 course.

11 (14) Contemporaneous records of the time that a pupil spends
12 online in the course and in related activities, and of the time the
13 ~~teacher is online, are maintained by the local educational agency.~~
14 *teacher is online with pupils, are maintained by the school district,*
15 *county office of education, or charter school.*

16 ~~(e) A local educational agency offering an online course may~~
17 ~~contract with another local educational agency to provide an online~~
18 ~~course meeting all of the requirements specified in subdivisions~~
19 ~~(a) and (b).~~

20 ~~(1) A teacher of an online course shall be an employee of the~~
21 ~~providing local educational agency, and shall meet all of the~~
22 ~~requirements for a teacher of an online course specified in~~
23 ~~subdivision (b).~~

24 ~~(2) For the purposes of subdivision (a) of Section 46300 only,~~
25 ~~a teacher meeting the requirements of paragraph (1) shall be~~
26 ~~deemed to be an employee of the offering local educational agency.~~

27 ~~(3) Contract terms shall be determined by mutual agreement of~~
28 ~~the local educational agencies.~~

29 ~~(4) A local educational agency that provides online courses~~
30 ~~pursuant to the contract shall contract directly with the offering~~
31 ~~local educational agency, and shall not enter into direct contracts~~
32 ~~with the pupils of the offering local educational agency or~~
33 ~~otherwise attempt to enroll those pupils.~~

34 ~~(d)~~

35 ~~(c)~~ Nothing in this section shall be interpreted to mean that a
36 charter school provides classroom-based or nonclassroom-based
37 instruction for the purposes of the state board determination made
38 pursuant to Section 47612.5.

39 ~~(e)~~

(d) Attendance accounted for pursuant to subdivision (a) and compliance with the requirements of subdivision (b) are subject to the audit conducted pursuant to Section 41020.

~~(f)~~

(e) A pupil shall not be credited with more than five days of course attendance per calendar week or more than the total number of calendar days that regular classes are maintained by the ~~local educational agency~~ *school district, county office of education, or charter school* during the fiscal year.

~~(g)~~

(f) The Superintendent, in consultation with the Controller and the Director of Finance, on or before December 31, 2012, shall do all of the following:

(1) Make revisions to any attendance accounting manual or guidance provided to a ~~local educational agency~~ *school district, county office of education, or charter school* that are necessary to conform to this section.

(2) Make revisions to any attendance accounting manual or guidance provided to local educational agencies that are necessary to clarify attendance accounting procedures for asynchronous online courses.

(3) Make recommendations to the appropriate policy and fiscal committees in both houses of the Legislature and to the Governor regarding statutory changes that would be necessary to allow pupil attendance in asynchronous online courses to be included in the calculation of average daily attendance pursuant to Section 46300.

~~(h)~~

(g) Pupil attendance in asynchronous online courses shall not be included in the calculation of average daily attendance pursuant to Section 46300 until the Superintendent has adopted rules and regulations pursuant to subdivision ~~(f)~~ (k).

~~(i)~~

(h) For the purposes of calculating average daily attendance pursuant to Section 46300 and meeting the minimum instructional time requirements specified in paragraph (3) of subdivision (a):

(1) A pupil enrolled in a noncharter school and engaged in educational activities in an online course meeting the requirements of subdivisions (a) and (b) shall be deemed to be under the immediate supervision and control of an employee of the district

1 or county office who possesses a valid certification document,
2 registered as required by law.

3 (2) A pupil enrolled in a charter school and engaged in
4 educational activities in an online course meeting the requirements
5 of subdivisions (a) and (b) shall be deemed to be attending at the
6 schoolsite of the charter school.

7 ~~(j)~~

8 (i) For the purposes of calculating average daily attendance
9 pursuant to Section 46300, ~~a local educational agency school~~
10 *district, county office of education, or charter school* claiming
11 pupil attendance in an online course meeting the requirements of
12 subdivision (b) shall not be required to meet the requirements of
13 Article 5.5 (commencing with Section 51745) of Chapter 5 of Part
14 28.

15 ~~(k)~~

16 (j) For the purposes of this section, the following definitions
17 apply:

18 (1) "Asynchronous online course" means a course where the
19 teacher and pupil may be online at different times and are unable
20 to interact simultaneously.

21 ~~(2) "Local educational agency" means a school district, county~~
22 ~~office of education, or charter school.~~

23 ~~(3)~~

24 (2) "Synchronous online course" means a course where the
25 teacher and pupil are online at the same time and able to interact
26 at that time.

27 ~~(l)~~

28 (k) The Superintendent, in consultation with the Department of
29 Finance, shall adopt rules and regulations, pursuant to the
30 rulemaking provisions of the Administrative Procedure Act
31 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
32 Division 3 of Title 2 of the Government Code), for both of the
33 following purposes:

34 (1) Clarifying or expanding the procedures required for verifying
35 the identification of pupils participating in asynchronous online
36 courses meeting all of the requirements of subdivisions (a) and
37 (b).

38 (2) Including pupil attendance in asynchronous online courses
39 in the calculation of average daily attendance pursuant to Section
40 46300. The Superintendent shall ensure that the rules and

1 regulations adopted for this purpose are consistent with the
2 revisions and recommendations required pursuant to subdivision
3 ~~(g)~~ (f).

4 (l) *No provision of this section shall be waived unless the waiver*
5 *is specifically authorized in statute.*

6 (m) This section shall become inoperative on July 1, 2017, and,
7 as of January 1, 2018, is repealed, unless a later enacted statute,
8 that becomes operative on or before January 1, 2018, deletes or
9 extends the dates on which it becomes inoperative and is repealed.

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12 CORRECTIONS:

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